



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

BY FIRST CLASS MAIL

JAN - 8 2013

William J. McGinley, Esq.
Patton Boggs LLP
2250 M Street NW
Washington, DC 20037

RE: MUR 6709
(formerly RR 12L-14)

Dear Mr. McGinley:

In the normal course of carrying out its supervisory responsibilities, the Federal Election Commission (the "Commission") became aware of information suggesting Bachmann for Congress and Daniel Puhl in his official capacity as treasurer (the "Committee") may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). On March 27, 2012, the Committee was notified that it was being referred to the Commission's Office of the General Counsel for possible enforcement action under 2 U.S.C. § 437g. On December 18, 2012, the Commission found reason to believe that the Committee violated 2 U.S.C. § 434(b), a provision of the Act. Enclosed is the Factual and Legal Analysis that sets forth the basis for the Commission's determination.

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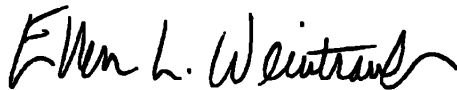
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In the meantime, this matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public.

Please note that the Committee has a legal obligation to preserve all documents, records, and materials relating to this matter until notified that the Commission has closed its file in this matter. *See* 18 U.S.C. § 1519.

We look forward to your response.

On behalf of the Commission,



Ellen L. Weintraub
Chair

Enclosures
Factual and Legal Analysis

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Bachmann for Congress and Daniel Puhl
in his official capacity as Treasurer

MUR 6709

I. GENERATION OF MATTER

This matter was generated based on information ascertained by the Federal Election Commission ("Commission") in the normal course of carrying out its supervisory responsibilities. See 2 U.S.C. § 437g(a)(2). The Reports Analysis Division ("RAD") referred Bachmann for Congress and Daniel Puhl in his official capacity as treasurer, (the "Committee") to the Office of the General Counsel ("OGC") for, among other things, failing to disclose, in the aggregate, \$208,502.36 in receipts and \$206,499.10 in disbursements. In total from 2009 to 2010, the Committee filed five incomplete disclosure reports with the Commission. In response, the Committee acknowledges the reporting errors but requests that the Commission decline to open an enforcement matter and refer the matter to Alternative Dispute Resolution ("ADR").

Based on the available information, the Commission has determined to open a MUR in connection with RR 12L-14 and find reason to believe that the Committee violated 2 U.S.C. § 434(b) by failing to disclose accurately receipts and disbursements in reports to the Commission.

II. FACTUAL AND LEGAL ANALYSIS

A. Factual Background

As detailed in the chart below, the Committee amended five reports — originally filed with the Commission from 2009 through 2010 — to disclose additional receipts totaling \$208,502.36 and additional disbursements totaling \$206,499.10.

BACHMANN FOR CONGRESS AMENDED REPORTS

Report	Date of Amendment	Increased Receipts	Increased Disbursements	Total
2009 July Quarterly	9/17/2010 & 5/18/2011	\$81,193.62	\$124.35	\$81,317.97
2010 April Quarterly	9/17/2010 & 5/18/2011	\$119,334.23	\$6,274.09	\$125,608.32
2010 July Quarterly	9/17/2010 & 5/18/2011	\$6,364.52	\$4,800.00	\$11,164.52
2010 October Quarterly	5/18/2011	\$2,370.36	\$57,338.16	\$59,708.52
2010 12 Day Pre-General	5/18/2011	n/a	\$137,962.50	\$137,962.50
	TOTAL	\$208,502.36	\$206,499.10	\$415,761.83

In response to these amendments, RAD sent the Committee a Request for Additional Information ("RFAI") that inquired about the increased activity disclosed on these reports. Letter from Ben Holly, Senior Campaign Finance Analyst, Federal Election Commission, to Thomas C. Datwyler, Treasurer, Bachmann for Congress (Nov. 10, 2011) (on file at www.fec.gov).¹ The RFAI noted that the amount of receipts and disbursements disclosed in the amended reports reflected a substantial increase, decrease, or both, when compared to the amounts disclosed in the original reports. *Id.* It further requested that the Committee either amend the reports or provide an explanation to clarify why the correct activity was not provided in the original reports. *Id.* The Committee responded to the RFAI by filing a Miscellaneous Text Submission (Form 99) explaining that the amendments were made as "a result of a self-initiated review of all transactions." Bachmann for Congress, Form 99 (filed Dec. 14, 2011).

The RAD Analyst called the Committee on January 13, 2012 and informed its then-treasurer, Thomas Datwyler, that the Committee may be referred for further action by the Commission and that the treasurer could provide any additional information regarding the

¹ RAD previously sent RFAIs regarding three of these reports. This analysis, however, only recounts the events related to the November 10, RFAI because it encompasses all of the Committee's increased or decreased activity disclosed on each of its five final amended reports.

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1 increased activity. After that conversation, the Committee filed an additional Form 99, again
2 explaining that the amendments were made as a result of a self-initiated review of all
3 transactions. Bachmann for Congress, Form 99 (filed Jan. 16, 2012).

4 RAD referred the Committee to OGC for, among other things, failing to disclose receipts
5 totaling \$208,502.36 and disbursements totaling \$206,499.10. Upon receipt of the Referral,
6 OGC notified the Committee about this matter on February 3, 2012. *See Agency Procedure for*
7 *Notice to Respondents in Non-Complaint Generated Matters*, 74 Fed. Reg. 38617 (Aug. 4,
8 2009).

9 In its response, the Committee does not dispute the underlying violations; rather, the
10 Committee requests that the allegations be referred to ADR. Resp. at 1. The Committee asserts
11 that the misreported activity from the 2010 election cycle represents a very small proportion of
12 that cycle's receipts (1.6% of funds raised in 2010 campaign) and disbursements (1.9% of funds
13 spent in 2010 campaign). *Id.* at 2. As a further basis for ADR referral, the Committee notes that
14 this small proportion of misstated activity coincided with a dramatic increase in the Committee's
15 receipts, "including a striking increase in the number of low-dollar donors." *Id.* Finally, the
16 Committee claims that referral to ADR is appropriate because the Committee "proactively
17 initiated an internal review to examine the dramatic increase in receipts and disbursements
18 during the 2010 election cycle and in an effort to ensure compliance with the reporting
19 requirements under the Act and Commission regulations." *Id.*

20 B. Legal Analysis

21 The Federal Election Campaign Act of 1971, as amended (the "Act"), requires committee
22 treasurers to file reports of receipts and disbursements in accordance with the provisions of
23 2 U.S.C. § 434. *See* 2 U.S.C. § 434(a)(1); 11 C.F.R. § 104.1(a). These reports must include,

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1 *inter alia*, the total amount of receipts and disbursements. *See* 2 U.S.C. § 434(b); 11 C.F.R.
2 § 104.3. The Act also requires committees to disclose itemized breakdowns of receipts and
3 disbursements and the name and address of each person who has made any contribution or
4 received any disbursement in an aggregate amount or value in excess of \$200 within the calendar
5 year, together with the date and amount of any such contribution or disbursement. *See* 2 U.S.C.
6 § 434(b)(2)-(6); 11 C.F.R. § 104.3(a)(3)-(4), (b)(2)-(4).

7 Here, the Committee did not comply with the Act's reporting requirements when it failed
8 to disclose \$208,502.36 in receipts and \$206,499.10 in disbursements on its five original reports
9 listed above (including two election-sensitive reports). Accordingly, the Commission has
10 determined to find reason to believe that the Committee violated 2 U.S.C. § 434(b).

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